

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 15 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

V.

DAMAZO SOLACHE VALDOVINOS,

Defendant - Appellant.

No. 06-30003

D.C. No. CR-01-60051-MRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael R. Hogan, District Judge, Presiding

Submitted September 13, 2006**
Portland, Oregon

Before: HAWKINS, SILVERMAN, and GOULD, Circuit Judges.

Damazo Valdovinos appeals his sentence following a remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005), for the district court to answer whether the sentence would have been materially different had the district

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

court known that the Sentencing Guidelines were advisory. We review for reasonableness, *United States v. Cantrell*, 433 F.3d 1269, 1279 (9th Cir. 2006), and affirm.

We previously concluded that the district court correctly calculated and applied the guidelines and decline to reconsider those arguments. *United States v. Scrivner*, 189 F.3d 825, 827-28 (9th Cir. 1999). On remand, the district court “considered” the guidelines and understood them to be only advisory. The court also considered the other 18 U.S.C. § 3553(a) factors and re-sentenced Valdovinos to the same sentence of 360 months – the minimum within the correctly calculated guidelines range. We conclude that the sentence is reasonable in light of all of the statutory factors.

AFFIRMED.